• **IN THE HIGH COURT OF DELHI AT NEW DELHI** •

Dated: 31 January, 2007

\+ CR.REV No. 350/2006

SATYAPRAKASH ..... Petitioner
Through Mr. D.C.Sharma, Advocate

versus

THE STATE NCT OF DELHI ..... Respondent

Mr.Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? yes

2. To be referred to the Reporter or not? yes

3. Whether the judgment should be reported in the Digest? yes

Mr.Justice S. Ravindra Bhat: (Open Court)

1. This revision proceeding impugns the judgment and order of the Additional Sessions Judge, whereby the conviction and sentence imposed by the Metropolitan Magistrate, against the petitioner here, was upheld.

2. The petitioner, driver of a "Blueline" bus, was charged with rashly and negligently causing the death of one Uma Devi on 16-9-2004. She was alighting from the bus, when, suddenly the petitioner accelerated the bus; as a result, she fell down from the vehicle. The passenger was run over by the rear wheel of the bus; after she was removed to the hospital, she succumbed to the injuries. The courts below convicted the petitioner under

Sections 279/304A, PPC, and sentenced him to undergo simple imprisonment for six months for the offence under Section 279, with fine of Rs. 1000/- and simple imprisonment for one year, for the offence under Section 304-A, and fine of Rs. 3000/-.

3. The prosecution examined nine witnesses, of whom two, namely PW-4 and PW-5 were eyewitnesses. Both were cross examined. They testified to the incident, whereby the bus accelerated, even while the deceased, was getting down from the bus, leading to her fall, and her being crushed under the vehicle. PW-4 was a co-passenger, and PW-5 was an eyewitness. Learned counsel submitted that the deposition of the said two witnesses do not establish that the petitioner drove in a rash or negligent manner; rather it suggests, at the highest that the deceased did not take care while getting down. It was also urged that the driver, in any case, could not see who was alighting or getting into the bus, as it was the duty of the conductor to notify when the vehicle had to leave.

4. Both the courts below have considered the submissions made on behalf of the petitioner accused. At one stage, doubt had been raised as to the identity of PW-4, i.e whether he was really the person that witnessed the event, or someone else with the same name; the argument did not find favour with the trial court, which held that there was no doubt in that regard, and also that the petitioner was indeed the driver of the bus. In the absence of any denial in regard, as to the identity of the driver of the bus, and the particulars of the accident, the only question that has to be considered is whether the courts below fell into any error in the appreciation of evidence or gravely erred on application of law, as to warrant interference under Section 397 of the Code of Criminal Procedure.

5. Section 397 of the Code, enables the court to exercise revisional jurisdiction. It is a jurisdiction to intervene and correct errors of law, and jurisdiction, if such errors result in miscarriage of justice. Though understandably cast in wide terms, such power cannot be converted routinely into appellate, and certainly not second appellate jurisdiction. In Bansi Lal v. Laxman Singh ((1986) 3 SCC 444, the Supreme Court held that the court cannot substitute its view, in exercise of revisional jurisdiction, merely if it thinks another conclusion is possible; there have to be strong grounds for it to render such findings.

6. The natural and material witnesses, i.e PW4 and PW5 have spoken to the role of the petitioner, and how he callously accelerated the bus, even while the passenger had not fully alighted; she was crushed under the vehicle. Even if for the moment, small discrepancies in the deposition were to be considered, those do not fatally undermine the prosecution version. I am therefore satisfied that the findings of the courts below do not call for interference.

7. The second question pertains to sentence. Here, the courts below took all the considerations into account, and imposed simple imprisonment for one year and six months, respectively to the petitioner, both to be undergone concurrently. The maximum sentence for the offence under Section 304-A is two years. I am of the opinion that no special factors exist, to warrant interference with the award of

sentence.

8. In view of the above discussion, the revision petition cannot succeed; it is accordingly dismissed.

DATED: 31 January, 2007 S. RAVINDRABHAT, J